

## **REMARKS:**

Claims 1-10, 12, 14, 17-32, and 40-53 were pending in the application. Claims 9, 45, 46, 51, and 53 have been canceled. Claims 1, 12, 17, 23, 24, 32, 50, and 52 have been amended. Claims 54 and 55 have been added. Therefore, claims 1-8, 10, 12, 14, 17-32, 40-44, 47-50, 52, 54, and 55 are now pending in this application.

Support for the amendments can be found throughout the specification, including but not limited to the following locations: paragraph 15, paragraph 32, paragraph 35; and Figs. 3-5.

## **Examiner Interview**

Applicant thanks the Examiner for the courtesy of interviewing this case on December 15, 2009. During the interview, Applicant's representative discussed proposed amendments to claims 1 and 17. The Examiner agreed that these amendments distinguished over the cited art. *See* Interview Summary mailed December 21, 2009. Accordingly, Applicant herein submits amendments similar to those discussed, which are believed to be patentably distinct for the same or similar reasons.

## **Section 103 Rejections**

All independent claims currently stand rejected under 35 U.S.C. § 103(a). Claim 1 stands rejected under 35 U.S.C. § 103 in view of Binder (U.S. Patent No. 7,200,152), Leyba et al. (U.S. Patent No. 6,276,502), and Charlebois et al. (U.S. Patent No. 4,255,609). Office Action at 2. Claim 17 stands rejected under § 103 as being unpatentable over Hosaka et al. (U.S. Patent No. 6,448,500) in view of Leyba and Charlebois. *Id.* at 13. Claim 23 stands rejected as being unpatentable over Binder in view of Hosaka, Leyba, and Charlebois. *Id.* at 18. Claim 32 stands rejected as being unpatentable over Hosaka in view of Charlebois. *Id.* at 24. Claim 50 stands rejected as being unpatentable over Hosaka in view of Leyba and Kleyer et al. (U.S. Patent No. 5,372,840). *Id.* at 30. Claim 52 stands rejected over Hosaka in view of Leyba and Knapp (U.S. Patent No. 5,726,851). *Id.* at 33. Applicant does not concede to the propriety of these rejections, but has amended the claims to advance prosecution of the case.

Applicant submits that there is no combination of the cited art that teaches or suggests each and every element of the amended independent claims. Claim 1, for example, recites first and second “network device[s],” and “an outdoor, above-ground cable ... greater than 100 meters

in length,” “wherein the first and second network devices include physical layer transceivers having a specified clock rate and are configured to communicate data at 100Mbps [e.g., at a maximum of 100Mbps or greater] via the cable over distances greater than 100 meters by using clock rates for the physical layer transceivers that are lower than the specified clock rate.” These features are not taught or suggested for at least the reasons below.

With regard to claim 1, the Examiner has proposed a combination involving Charlebois. Charlebois is directed to an “above ground” “telecommunications cable” that may include spans of “150 to 300 meters.” *See* Charlebois at col. 1, lines 6-13. Charlebois’s cable does not teach or suggest, however, that “data” could be “communicate[d]” “at 100 Mbps ... over distances greater than 100 meters” as recited in claim 1 (emphasis added). This deficiency of Charlebois is not overcome by any of the other cited references—e.g., no other reference is cited as teaching a cable greater than 100 meters in length. Applicant thus respectfully submits that for at least the above reasons, the proposed combination involving Charlebois fails to teach or suggest teach and every element of claim 1.

Independent claims 17, 23, 32, 50, and 52 all recite a “cable greater than 100 meters in length” that also allows for data at 100Mbps. Charlebois fails to teach or suggest these limitations for at least reasons similar to those noted above in support of claim 1. Applicant thus respectfully requests withdrawal of the § 103 rejections of all independent claims (1, 17, 23, 32, 50, and 52) and their respective dependent claims.

Other features are believed to be patentably distinct over the cited references. Given the fact that all independent claims are believed to be in condition for allowance, however, it is not believed necessary to address the other dependent claims at this time.

**CONCLUSION:**

Applicants submit the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/5957-03700/DMM.

Respectfully submitted,

Date: December 31, 2009

By: /Dean M. Munyon/  
Dean M. Munyon  
Reg. No. 42,914

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.  
P. O. Box 398  
Austin, Texas 78767  
(512) 853-8847